

**REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA**

**A REVIEW OF THE PURCHASING PRACTICES
AND CONFLICT OF INTEREST POLICIES IN
THE SELECTION OF SCHOOL TEXTBOOKS**



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Honorable Elihu M. Harris, Chairman
Members, Joint Legislative Audit Committee
State Capitol, Room 2148
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the selection of school textbooks for use in California's elementary and high schools. This report determined that certain publishers have failed to equitably provide free instructional materials to all school districts, as required by law. Additionally, some school districts lack comprehensive conflict of interest policies.

Respectfully submitted,

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Summary

Results in Brief The State Board of Education (state board) is responsible for adopting textbooks and other instructional materials that it determines are suitable for use in California's elementary schools. From the list of materials that the state board adopts, local school districts then select most of the textbooks and instructional materials that they purchase. During our review of two recent state adoptions and the subsequent purchases of textbooks by four districts, we noted the following conditions:

- Publishers are not equitably providing instructional materials free of charge to the districts that purchase their textbooks, as required by law;
- Local school districts' policies for prohibiting incompatible relationships with publishers and for reporting such relationships are not nearly as comprehensive as the state board's policies;
- Publishers hold many seminars, workshops, and other events to present their instructional materials to school officials, occasionally providing refreshments, transportation, lodging, and small gifts. Some local school district officials who may have been involved in the selection of instructional materials for their districts have attended these events; and
- In the adoption of instructional materials, the recommendations of the state board's advisory groups generally differed somewhat from the state board's final choices.

Background The State Constitution requires the state board to adopt instructional materials for all elementary school grade levels. To assist the state board with the evaluation and adoption of curriculum frameworks and the evaluation of instructional materials, the law established the Curriculum Development and Supplemental Materials Commission (Curriculum Commission). The Curriculum Commission assigns its members to Subject Matter Committees, which assist and advise in the evaluation of instructional materials for a subject area, for example, mathematics or English-language arts. Instructional Materials Evaluation Panels evaluate the basic instructional materials submitted by publishers for adoption. Local school districts may select from among the instructional materials adopted by the board in deciding which instructional materials to purchase for their elementary schools.

School Districts Not Provided the Same Free Instructional Materials The Education Code, Section 60061, requires publishers to provide free instructional materials to the same extent to all school districts. At least four publishers gave three of the four school districts we reviewed free instructional materials they did not give free to other districts. In some cases, they charged other districts for the materials; in other cases, they did not provide them at all. As a result, these publishers wrongly charged 15 districts at least \$60,000. Moreover, the students in the school districts that did not receive the instructional materials to which they were entitled may have lost the benefit those additional materials would have provided.

In addition, although required by their contracts, all four publishers we reviewed failed to report to the California Department of Education (department) when free instructional materials became available to districts. Finally, one publisher provided a \$10,000 grant to one district that it did not provide to other districts.

**Some School
Districts Lack
Compre-
hensive
Conflict of
Interest
Policies**

Local school districts' policies for prohibiting incompatible relationships with publishers or reporting such relationships are not nearly as comprehensive as the State's. For example, the state board requires members of all its advisory bodies in the adoption process to file statements disclosing their financial relationships with publishers. However, the policies at four local school districts required only 45 out of a sample of 104 district officials who participated in the selection of instructional materials to file statements disclosing their investments and outside sources of income. Without policies that define incompatible activities and relationships and disclosure of these matters, districts risk having the public and others question the credibility of their decisions. Further, districts may not be buying the instructional materials that are best suited for the needs of their pupils.

**Publishers
Host Numerous
Events That
Local School
Officials Attend**

Publishers sponsor many seminars, workshops, and other events to present their instructional materials to school officials. Of the 79 participants in local districts' selection processes who responded to our survey, 36 indicated that they were invited to events hosted by publishers and 21 stated that they had attended. We also surveyed eight publishers about the events they hosted. Four of the eight publishers we surveyed reported that they hosted approximately 300 such events from 1987 through 1989. They reported that the events were usually held at hotels, inns, and restaurants. They also reported that they usually provided beverages and food and occasionally provided small gifts, transportation, and lodging.

**An Overview
of Two
Recent State
Adoptions of
Instructional
Materials**

The State's process for adopting instructional materials requires various advisory bodies to evaluate the materials that publishers submit. Although the state board receives the recommendations of an advisory body, it is not required to adopt those recommendations. Moreover, the materials that the state board finally adopts are not always the ones that its advisory bodies recommend. For example, in the 1988 adoption of materials for the integrated English-language arts subject area, the state board adopted eleven submissions of materials and a portion of another submission. Most of the Instructional Materials Evaluation Panels had recommended that the state board not adopt five of these submissions and a portion of one other. In addition, the Subject Matter Committee and the Curriculum Commission had recommended that the state board not adopt one submission and a portion of one other.

The state board was not required to provide a reason for adopting the materials not recommended by its advisory groups, and it did not. However, the state board's president stated that he felt that the board adopted the additional materials because a number of witnesses testifying in support of these materials convinced the members that the materials should be available to those districts with students who have special needs.

On January 1, 1990, an amendment to the law became effective that requires the board to provide written explanation, based on specified criteria, in instances when the board fails to adopt instructional materials recommended to it. However, the law does not require the board to justify instances when materials are adopted that have not been recommended by the Curriculum Commission.

Recommendations

We have recommended that the department take the following actions:

- Pursue any payments and penalties due from publishers that wrongly charged school districts for instructional materials they should have received free and for materials they were entitled to receive free but did not receive at all;
- Require publishers to pay a penalty when they fail to notify the department of instructional materials they are offering free but that do not already appear in their contracts with the state board; and
- Require publishers to make any grants available to the same extent to all school districts.

We also recommend that the Legislature mandate incompatible activities requirements for school officials involved in textbook procurement. These requirements should be similar to the state board's requirements.

Agency Comments

The California Department of Education responded to our report saying that our comments and recommendations will enhance its efforts to enforce provisions of the Education Code, strengthen its contracts with publishers, and improve reporting by school districts.

Introduction

As defined by state law, instructional materials are for use by pupils and their teachers as learning resources to help pupils acquire facts, skills, or opinions or develop cognitive processes. Instructional materials may include textbooks, tests, and educational materials such as audio-visual or manipulative devices, including films, flash cards, kits, phonograph records, study prints, and charts. According to the California Department of Education (department), during fiscal year 1987-88, school districts in California spent \$88.8 million for textbooks.

The State Constitution requires the State Board of Education (state board), comprising ten members and a student member who are appointed by the governor with a two-thirds vote of the Senate, to adopt textbooks for use in elementary schools throughout the State. The Education Code refines the state board's responsibility and authorizes the board to adopt "basic instructional materials" for use in elementary schools (kindergarten through grade eight). The code defines basic instructional materials as materials that are designed for pupils to use as principal learning resources and that meet the basic requirements of the intended course. There is no state-level adoption of instructional materials for high schools.

The Education Code requires the state board to adopt basic instructional materials for all elementary school grade levels in the following seven categories: language arts, mathematics, reading, science, social science, bilingual or bicultural subjects, and any other subjects, disciplines, or interdisciplinary areas the

board deems necessary. The code further requires the state board to adopt for each subject and grade level not less than 5 but not more than 15 of the basic instructional materials. Effective January 1, 1990, the code allows the state board to adopt fewer than five of the above items if publishers submit fewer than five items or the state board finds that fewer than five items meet either the criteria for quality given in the law or in the curriculum framework.

A curriculum framework is an outline of the components of a given course of study and is designed to guide school districts in the provision of their instructional programs. The state board approves a curriculum framework for each grade level. The curriculum framework should prescribe the criteria and standards of quality against which to measure the instructional materials for the given course of study.

To assist the state board with the development of curriculum frameworks and the evaluation and adoption of instructional materials and with other matters, the law established an advisory body, the Curriculum Development and Supplemental Materials Commission (Curriculum Commission). The Curriculum Commission, which consists of 18 members most of whom the board appoints, organizes itself into Subject Matter Committees to manage the evaluation of instructional materials within a subject area. Further, to assist the Curriculum Commission in carrying out its responsibilities for evaluating basic instructional materials, each Subject Matter Committee establishes a number of Instructional Materials Evaluation Panels (IMEPs). IMEP members are nominated by the Subject Matter Committee, recommended by the Curriculum Commission, and approved by the state board. These members primarily are teachers and other staff from county offices of education and school districts. Finally, the department is responsible for assisting the state board and the Curriculum Commission in carrying out their respective responsibilities.

The state board's policy is to evaluate and adopt curriculum frameworks and instructional materials for a particular subject area only once every seven years. This period is referred to as the adoption cycle. However, Chapter 1181, Statutes of 1989, which became effective on January 1, 1990, allows publishers to submit their basic instructional materials for adoption at least every two years. California is one of 22 states that adopt textbooks on a statewide basis. For a schedule of these states and the length of their respective adoption cycles, please refer to Appendix A.

Upon adopting basic instructional materials, the state board and the publishers enter into contracts that specify the prices of the adopted instructional materials and indicate whether any materials are free of charge. Sometimes these contracts will specify a minimum number of textbooks that a district must order before it can receive the free items. Based on these contracts, the department publishes a price list that includes the adopted instructional materials available to the districts at a charge or for free.

Each year the State appropriates funds to the state board, which in turn allocates these funds to the districts for the purchase of elementary school and high school instructional materials. The state board determines what portion of a district's allocation for elementary school materials the district must use to purchase adopted instructional materials. During the period covered by our review, the state board had established this portion to be 80 percent. The remaining 20 percent could be spent on instructional materials the state board had not adopted. Districts also receive an allocation of these state funds to purchase instructional materials for their high schools. However, state law requires only that the governing boards of those districts ensure that the instructional materials meet certain statutory requirements. For example, they must accurately portray racial and cultural diversity in our society and be accurate, objective, current, and suited to the students' needs.

Districts can use one of two methods for purchasing instructional materials with their allocations of state funds. Under one method, districts order adopted instructional materials through the department. Under the other method, districts receive their state allocations in cash and then place orders directly with publishers. In addition to using state funds, districts may use other funds to buy instructional materials. For high school instructional materials, districts must place orders directly with publishers.

**Scope and
Methodology**

The purpose of our audit was to review the processes used in California for adopting and selecting basic instructional materials. Specifically, we focused on the procedures used by the State and by school districts to prevent publishers from inappropriately influencing these decisions.

We reviewed relevant state laws and the state board's policies, procedures, and practices to gain an understanding of the State's process for adopting instructional materials. As part of our review, we examined the available records supporting decisions that the state board and its various advisory groups made during the most recent adoptions of mathematics and English-language arts instructional materials.

To understand the districts' processes, we reviewed the existing policies, procedures, and practices of four districts. We examined the most recent selections of instructional materials for English-language arts or mathematics for all grade levels as shown in the following table.

Table 1 Instructional Materials Selected for All Grade Levels by Four Districts

District	Subject Area	Grade Level	Selection Period
Oakland Unified	English-language arts	K-12	10/88-04/89
Saddleback Valley Unified	Mathematics	K-12	09/87-06/88
San Diego City Unified	Mathematics	K-12	04/86-05/87
Stockton Unified	English-language arts	K-12	10/88-04/89

We also compared the existing conflict of interest policies established by each of the four districts with the conflict of interest policies established by the department and the state board.

To determine whether publishers equitably furnished school districts with free instructional materials as required by law, we examined purchase documents such as order forms, vendor invoices, and contracts at the four districts, and we identified the free instructional materials that publishers provided to these districts. Our examination at the four districts was limited to recent purchases of mathematics or English-language arts instructional materials for elementary and high schools. When we identified free instructional materials that did not appear on the state price list, we contacted 24 other districts that purchased the same instructional materials from the same publishers and asked whether they had received or were offered the same instructional materials free of charge.

To determine the extent that publishers met with individuals who participated in either the State's evaluation and adoption process or the evaluation and selection of instructional materials at the four districts, we surveyed many of these individuals and requested details about any events they attended that publishers sponsored. We also asked the publishers identified in this survey to provide specific details about any of the events they hosted that were not scheduled by either the State or a school district.

Further, we reviewed the department's procedures to limit publishers' inappropriate influence over the adoption process, and we reviewed the conflict of interest disclosure statements of

individuals at the state level who participated in the evaluation and adoption of mathematics and English-language arts instructional materials. We found few weaknesses in these areas. We also reviewed the prices publishers charged for instructional materials, because the Education Code requires publishers to treat all school districts equitably in the prices they charge, and we found few weaknesses in this area. Finally, we contacted the school districts and publishers and considered their comments in preparing this report.

Chapter 1 Some Publishers Did Not Provide All School Districts With the Same Free Instructional Materials, as Required by Law

Chapter Summary

Publishers are not equitably providing free instructional materials to all the school districts that buy the publishers' instructional materials, as the law requires. Of the eight publishers that sold the majority of textbooks and other instructional materials to the four districts we visited, four publishers provided three of these districts with free instructional materials that they did not provide free to other districts. In some instances, the publishers charged other districts for the materials; in other instances, they did not provide the materials at all. As a result, the four publishers wrongly charged 15 districts more than \$60,000 for instructional materials these districts were entitled to receive free. Additionally, the students in the districts that did not receive the free instructional materials to which they were entitled may have lost the benefit those additional materials would have provided. School districts were likely not aware of all the free instructional materials that were available to them because publishers, in violation of the terms of their contracts with the State Board of Education (state board), have not always informed the California Department of Education (department) when free instructional materials have become available to districts. In addition, school districts have not informed the department when publishers provided or offered free instructional materials that are not shown on the state price list. Lastly, one publisher provided a grant to one district that it did not provide to other districts.

**Districts Are
Not Provided
Free Materials
Equitably**

The Education Code requires publishers to treat all school districts equitably in the amount of instructional materials they provide free of charge. A portion of Section 60061 of the code requires publishers to provide instructional materials free of charge in this State to the same extent as they provide them in other states or local districts. If a publisher willfully fails to meet these requirements, the publisher shall be liable in the amount of three times the amount overcharged to districts and three times the value of the instructional materials and services that districts were entitled to receive free but did not.

The state board's contracts with publishers require the publishers to notify the department of any instructional materials that are available free of charge to districts. Periodically, the department sends each district a memorandum listing the instructional materials that are available free of charge but do not already appear as such on the state price list. The department also requests districts to notify it if a publisher offers the district free instructional materials that do not appear on either the state price list or in the department's memoranda.

As early as 1987, the four districts we reviewed purchased the majority of their textbooks and other instructional materials on mathematics and English-language arts from eight publishers. Five of the eight publishers provided these districts with more free materials than were listed on either the state price lists or the department's memoranda.¹

Before our audit, the department was aware that one of these five publishers, Holt, Reinhart, and Winston, Inc., had apparently provided free materials inequitably to some districts. According to the manager of the department's Instructional Materials Fiscal

¹We actually identified six publishers who provided more free materials in the districts we reviewed than were listed in either the state price lists or the department's memoranda. However, we concluded that one of these six publishers, Scott, Foresman and Company, apparently did offer these materials free to other districts in the State.

Unit, the department surveyed the State's districts that had purchased instructional materials from this publisher to identify the amount of free materials and other items the publisher had failed to provide or offer to other districts. As of March 27, 1990, it estimated the value of these items to be \$1.48 million. The department is still gathering information on this matter. We have not included this publisher in the analysis that follows.

Since the State's most recent mathematics and English-language arts adoptions, the other four publishers sold textbooks and other instructional materials on mathematics and English-language arts to 276 districts through the department. This number may not represent all the districts that bought their mathematics and English-language arts instructional materials from these four publishers because many school districts do not buy all of their instructional materials through the department. For example, as of March 27, 1990, 376 (38.6 percent) of the 975 districts ordered their instructional materials directly from publishers.

To determine whether the four publishers provided other districts with free instructional materials to the same extent that they provided free materials to the four districts we visited, we contacted 24 of the 276 districts by telephone that had purchased the same textbooks from these four publishers. We received written responses from each of these districts. Table 2 shows a breakdown by publisher of the 24 districts we contacted. (Appendix B lists the names of each of the 24 districts.)

Table 2 Districts Contacted for Each Publisher

	Districts Contacted
Addison-Wesley Publishing Company, Inc.	5
Houghton Mifflin Company	5
Scribner/Laidlaw	5
Open Court Publishing Company	9 ^a
Total	24
^a We selected five sample districts each for this publisher regarding two different issues addressed in our audit; one of the districts was included in both sample sets.	

**Some Districts
Were Charged
for Materials
Given Free to
Other Districts**

Of the 24 school districts we contacted, the four publishers charged 15 for the same instructional materials they provided free of charge to three of the four districts we visited.

For example, in July 1988, Saddleback Valley Unified School District purchased mathematics textbooks and other instructional materials from Open Court Publishing Company. With these purchases, Open Court provided six different types of instructional materials for free. Five of the six items--for example, response cards and number cubes--were provided free with every textbook the district purchased, and the sixth item (a test booklet) was provided free with every 25 student textbooks the district purchased. These six instructional materials were shown in Open Court's contract with the state board and in the state price list at prices ranging from \$0.69 to \$2.28 each.

Beginning in July 1988, Richmond Unified School District began purchasing the same mathematics textbooks and other materials from Open Court. However, when Richmond Unified ordered the same types of items that Saddleback Valley Unified received free, Open Court charged Richmond \$27,611 for these items. According to the director of Purchasing and Stores for Richmond Unified, Open Court did not offer or provide these materials to her district free of charge. Later, Open Court did make one of the items available to all districts: Open Court's contract with the board, effective July 1, 1989, makes one test booklet available free of charge for every 25 textbooks purchased.

In another example, Addison-Wesley Publishing Company, Inc., contracted with the San Diego City Unified School District in June 1987 and agreed to provide a free teacher's resource book with every 25 mathematics textbooks the district purchased. Furthermore, Addison-Wesley agreed to provide an additional number of free teacher's resource books equal to ten percent of the number of books the district received free. The price of the teacher's resource book according to Addison-Wesley's contract with the board, effective July 1, 1987, through June 30, 1993, was \$183.15.

Beginning in July 1988, Barstow Unified School District purchased the same mathematics textbooks as specified in the agreement between Addison-Wesley and San Diego City Unified, and Barstow Unified was provided one free teacher's resource book with the purchase of every 25 textbooks. However, Barstow Unified paid \$366 for two additional teacher's resource books that it would have received free under the arrangement Addison-Wesley had with San Diego City Unified. According to the instructional media service specialist for Barstow Unified, Addison-Wesley did not offer Barstow Unified the additional ten percent quantity of resource books.

The four publishers charged the 15 districts we contacted more than \$60,000 for instructional materials that the publishers had previously provided free to other districts. Also, as of April 27, 1990, except as noted above, these four publishers had not notified the department, as required by their contracts, when they provided instructional materials to districts on terms other than those stated in their contracts with the state board.

**Free Materials
Not Offered or
Provided to
all Districts**

Four publishers provided to three of the four districts we visited free instructional materials that they did not also provide or offer to 21 of the 24 other districts we contacted.

For example, in July 1989, Houghton Mifflin Company provided Oakland Unified School District with free response booklets when the district purchased textbooks for its English-language arts classes. The prices for these items, according to the state price list, ranged from \$4.07 to \$4.41 each for the response booklet, depending on the grade-level ordered. Houghton Mifflin gave Oakland Unified one free response booklet with every textbook purchased for grades two through six.

During July 1989, Norwalk-La Mirada Unified School District purchased the same textbooks from Houghton Mifflin. However, the district did not receive any free response booklets with its purchase of the textbooks although Houghton Mifflin had provided

those free materials to Oakland Unified with its purchase of the same textbooks. If Houghton Mifflin had provided Norwalk-La Mirada Unified with the response booklets to the same extent as it did Oakland Unified, Norwalk-La Mirada Unified would have received free of charge over \$29,800 worth of these instructional materials.

According to the regional manager for Houghton Mifflin, Oakland Unified received the response booklets free because the district had opted not to receive another booklet that Houghton Mifflin was offering free to all districts, and the publisher offered to substitute the response booklet for free instead. Presently, the state board's contracts with publishers do not specifically address the issue of substitution of materials or the reporting of substitutions to the department.

**Some Free
Materials Were
Not on the
State Price List**

Two of the four publishers provided some districts with free instructional materials that were not listed on either the state price list or the department's memorandum to districts. For example, according to the agreement between Addison-Wesley Publishing Company, Inc., and San Diego City Unified School District dated June 24, 1987, the publisher provided one free homework supplement with each 25 mathematics textbooks San Diego City Unified purchased for certain grade levels. It also provided one free mathematics skills software program for certain grade levels in each school within the district. Neither of these two items were shown in the state price list nor in the memorandum from the department as being available from Addison-Wesley. Beginning in July 1988, Barstow Unified School District purchased at least 2,005 of Addison-Wesley's mathematics textbooks for the same grades; however, according to the instructional media service specialist for Barstow Unified, Addison-Wesley did not offer or provide the homework supplements or the mathematics skills software free to her district. According to Addison-Wesley's 1988 price catalog for mathematics, the price of a homework supplement was \$45.63, and the price of a mathematics skills software program

was \$59.34. Consequently, the approximate value of these items that the district was entitled to receive was \$4,638. The vice president and director of sales for Addison-Wesley explained to us that it did not offer the mathematics skills software statewide or report it to the department because marketing research showed that other districts had minimal interest in the software.

The total value of the instructional materials that all 21 districts were entitled to receive free of charge but did not was more than \$149,000. Furthermore, the students in those 21 districts may not have received the benefit of the educational value that the additional instructional materials would have provided.

On March 21, 1990, we sent letters to the four publishers requesting their explanations for the conditions we found regarding the inequitable provision of free instructional materials to different districts. As of June 21, 1990, Addison-Wesley Publishing Company, Inc., Houghton Mifflin Company, and Open Court Publishing Company had responded. The legal counsel for Open Court Publishing Company contended that information that three of the districts had provided us was inaccurate. Two of those districts furnished additional information to substantiate that Open Court did not provide the items referred to in this chapter free of charge, as Open Court's attorney contended it did. As of June 20, 1990, the third district had not located sufficient information to either confirm or refute Open Court's claim.

Also, according to an analyst of the department's Instructional Materials Fiscal Services Unit, none of the four publishers had notified the department about the free instructional materials that were available to districts as of April 27, 1990. In instances when publishers fail to report these items, the department cannot include them in its memoranda to school districts; therefore, districts may not know that the items are available free of charge. In fact, when we contacted the 24 districts to determine whether they had been offered or had received the free instructional materials that were provided free to three districts we visited, 21 of the districts told us that they were not aware that these

additional instructional materials were available free of charge. Although the state board's contracts with publishers require publishers to report additional free items to the department, the contracts presently do not require publishers to pay a penalty for failing to report the additional free items.

**Districts Are
Not Reporting
Free Materials**

In addition to requiring publishers to report to it any instructional materials that are available free to districts, the department also requests the districts to report when publishers offer such items. The memorandum that the department periodically sends to each district, which includes a listing of the free instructional materials that are available to districts but that do not already appear in the state price list, requests that the districts notify the department when publishers offer any additional free instructional materials. If districts report such items, the department can include them in any memoranda that follow. In this manner, all districts can have information about the instructional materials publishers offer free and any conditions for receiving them.

Three of the four districts we visited had received numerous free instructional materials that were not listed as being free on either the state price list or the department's memoranda. According to an analyst of the department's Instructional Materials Fiscal Unit, as of April 27, 1990, all three districts had not notified the department of the additional free items.

**Grant
Provided to
One District
but Not to
Others**

In addition to providing free instructional materials to some districts and not to others, a publisher provided one of the four districts we visited with a grant that it did not offer to at least four others.

On June 24, 1987, San Diego City Unified School District contracted with Addison-Wesley Publishing Company, Inc., to purchase mathematics textbooks. In this contract, Addison-Wesley agreed to provide San Diego City Unified with a \$10,000

grant for developing guides to help the district's teachers and administrators implement Addison-Wesley's approach to teaching mathematics. The mathematics coordinator for San Diego City Unified School District told us that her district develops implementation guides for many of the district's courses and would have developed the implementation guides for the district's mathematics courses regardless of whether the district had received the grant from Addison-Wesley. However, the grant enabled the district to make extensive revisions to the guides.

The vice president and director of sales for Addison-Wesley stated that the grant for the development of the implementation guides was not for the purpose of a sales promotion and was not an instructional material originated by his company. Instead, he said it was an "ancillary funding proposal" that the district required Addison-Wesley to provide.

We contacted by telephone a sample of five other districts who had purchased the same mathematics textbooks as San Diego City Unified, and we received written responses from each of those districts. Four of those districts told us that they had not been offered a grant for developing implementation guides; the remaining district could not recall if it did or did not receive an offer. Further, three of the five districts told us they would likely have been interested in receiving the grant.

Neither the law nor the state board's contracts with publishers specifically require publishers to provide grants to the same extent to all school districts. The department has taken the position that grants given to one district should be available to others. In October 1986, the department notified all districts that Harcourt Brace Jovanovich, Inc., gave one district a \$25,000 grant to develop, produce, and print implementation guides and various other materials. This notice stated that Harcourt Brace Jovanovich, Inc., would provide grants to other districts for the same purpose. We agree with the department's position regarding grants. By making a grant available to one district and not offering or providing it to the same extent to others, this publisher seems, in our opinion, to treat districts inequitably.

Conclusion Publishers are not equitably providing instructional materials free of charge to all school districts, as required by law. For example, four publishers charged at least 15 districts for materials they provided free to three other districts. In addition, these same four publishers provided the same three districts with free instructional materials that they did not offer or provide to at least 21 other districts that purchased their textbooks. Consequently, the students in some districts received the educational benefits of the additional free instructional materials while the students in other districts may not have. Furthermore, one publisher treated other districts inequitably when it provided a grant to one district but did not offer or provide these grants to other districts.

Many districts are not aware of the free materials that are available to them because publishers are not reporting them to the California Department of Education. Publishers would have an incentive to report such items to the department if the department penalized them when they failed to report. Finally, school districts that receive the free items are also not reporting these items to the department as the department has requested.

Recommendations To enforce the provisions of the Education Code requiring publishers to provide instructional materials free of charge to the same extent to all school districts, the California Department of Education should take the following actions:

- Collect from Holt, Reinhart, and Winston, Inc., the amount that this publisher is liable for under the law;
- Identify the districts throughout the State that purchased the same instructional materials from the four publishers we identified during our review. Then quantify the amount that these districts were charged for the materials they should have received free, as well as the value of the instructional materials that these districts were entitled to receive free but did not; and

- Pursue any payments and penalties due from these publishers.

To strengthen the State Board of Education's contracts with publishers and provide an incentive for publishers to report all free items they are giving to districts, the department should revise the contracts as follows:

- Require publishers to pay a penalty when they fail to notify the department of instructional materials they are offering free that do not already appear in their contracts with the board;
- Require publishers to report any substitutions of free items that they allow districts to make;
- Require publishers to report any grants they make to districts; and
- Clarify that publishers must make grants available to the same extent to all districts.

To improve the districts' reporting of items publishers offer for free, the department should remind districts of the importance of reporting to the department when publishers offer or provide any free instructional materials that do not appear in the state price list or in the memoranda sent by the department.

Chapter 2 Some School Districts Lack Comprehensive Conflict of Interest Policies

Chapter Summary

Much like the individuals at the state level who participate in the evaluation and adoption of instructional materials, many administrators and teachers at local school districts participate in similar processes. Collectively, these participants at the local school districts significantly affect the financial interests of textbook publishers. However, local school districts' policies for prohibiting incompatible relationships with publishers or reporting such relationships are not nearly as comprehensive as the State's. For example, the State Board of Education (state board) requires all members of its advisory bodies to file statements disclosing any financial relationships they have with publishers. However, the policies at the four local school districts we visited required only 45 of a sample of 104 district officials who participated in the selection of instructional materials to file statements disclosing their investments and outside sources of income. Without more comprehensive policies that define incompatible activities and relationships and that require disclosure of financial relationships with publishers, districts are at greater risk of having the public and others question the credibility of their decisions and of buying instructional materials that are not the ones best suited for the needs of their pupils.

**Conflict of
Interest Codes
Required
by Law**

One purpose of the Political Reform Act is to ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interest. The Government Code, Section 82048, defines public official as any member, officer, employee, or consultant of a state or local government agency, including school districts. The Political Reform Act, embodied in the Government Code, Section 87300, et seq., requires every state agency, which is defined by the Government Code, Section 82041, to include school districts, to adopt a conflict of interest code. The Government Code requires each conflict of interest code to designate the positions within the state agency or school district that make, or participate in the making of, decisions that may foreseeably have a material effect on any financial interest. The law also requires that each conflict of interest code specify the types of investments, business positions, interests in real property, and sources of income that the employees in the designated positions must report.

**The California
Department of
Education's
Policies**

The California Department of Education (department) and the state board have each adopted conflict of interest codes, contained in Title 5 of the California Code of Regulations, which require members of the state board and the Curriculum Development and Supplemental Materials Commission (Curriculum Commission) to file statements of economic interests. Members of the state board and the Curriculum Commission must report investments and business positions that the members held as well as income they received during the previous calendar year if the entity in which the investment or business position was held or if the source of the income is a publisher, manufacturer, or vendor of instructional materials or another related activity.

In addition to the conflict of interest codes adopted by the department and the state board, the state board adopted additional regulations to strengthen the integrity and impartiality of the advice it receives and the decisions it makes on such matters as approving curriculum frameworks and adopting instructional

materials. These regulations define the activities that are incompatible or in conflict with the duties of a member of any of the state board's advisory groups. Such incompatible activities include the acceptance of any gift, money, meal, beverage, gratuity, entertainment, or other thing of value from any person or firm that does or is likely to do business with or submit materials to the Curriculum Commission, Subject Matter Committee, or Instructional Materials Evaluation Panel (IMEP) of which he or she is a member or to which he or she gives advice.

The regulations that the state board adopted also prohibit individuals from discussing with a publisher's representative any proposal or material that has been or is likely to be submitted to the Curriculum Commission, Subject Matter Committee, or IMEP, of which they are members or to which they give advice, except in a scheduled meeting authorized by the chairperson of the Curriculum Commission, Subject Matter Committee, or IMEP to which they belong.

Finally, members of a Curriculum Commission or a Subject Matter Committee or of an IMEP advising a Curriculum Commission are prohibited by these regulations from having any financial interest in any matter subject to the review or approval of the Curriculum Commission. Such a financial interest would include employment or a contract with a publisher submitting instructional materials to or otherwise doing business with the Curriculum Commission, Subject Matter Committee, or IMEP of which they are members.

In addition, the regulations adopted by the state board require individuals interested in becoming members of either the Curriculum Commission or an IMEP to file an advisory body disclosure statement. This disclosure statement, unlike the disclosure requirements contained in the statement of economic interests, requires the reporting of past, present, and prospective employment or contractual relationships with and payment received from any person or firm that will do business with or submit materials to the advisory body. In addition, prospective members

of the advisory body must also report whether they were consultants, authors, contributors, or editors of any material or proposal that is likely to be submitted to their advisory body. Finally, members are required to report the details of any royalty payments they expect to receive while serving on the advisory body. According to department procedure, department staff review the disclosure statements for activities that appear to be incompatible or in conflict with the duties of the advisory body. If staff identify any such activities, the state board's legal counsel rules on the individual's eligibility for becoming a member of an advisory body.

**School Districts
Lack Comprehensive
Conflict of
Interest
Policies**

At the four districts we reviewed, we found the districts' selection processes for elementary school materials to be similar to the State's adoption process. For example, individuals who serve on or advise groups that evaluate and select instructional materials for the school districts have many of the same responsibilities and make similar decisions as members of the Curriculum Commission, Subject Matter Committees, and IMEPs, advisory groups at the state level. Furthermore, recommendations made by individuals responsible for evaluating instructional materials for purchase by their districts may affect decisions that involve significant sums of money. For instance, the San Diego City Unified School District spent over \$4.7 million for instructional materials during the 1988-89 fiscal year.

Even though individuals involved in the districts' processes make decisions similar to those made by their counterparts at the state level, none of the districts had established policies as comprehensive as the state board's regulations for prohibiting incompatible relationships with publishers that may increase the risk of bias or the appearance of bias.

For example, at the time they selected the mathematics or English-language arts instructional materials to be used in their districts, Stockton Unified School District, Saddleback Valley Unified School District, and Oakland Unified School District had not adopted policies that prohibit participants in the selection processes from discussing instructional materials with publishers outside of meetings organized and authorized by their districts.

Furthermore, neither Stockton Unified School District nor Saddleback Valley Unified School District had adopted a policy that prohibits all the individuals serving on their selection committees or advising those committees from accepting any items of value from publishers. Finally, while San Diego City Unified School District and Oakland Unified School District did prohibit one or both of these types of activities, the prohibitions were not as extensive as those contained in the regulations adopted by the state board. For instance, San Diego City Unified School District prohibits individuals participating in its selection process from attending food and drink functions paid for by publishers or from accepting gifts from publishers, but only in cases when all the attendees of the function or recipients of the gifts are district employees. In addition, although Oakland Unified School District prohibits accepting personal gifts or gratuities from publishers, the prohibition is only for the individuals serving on the committee that recommends the district's instructional materials for selection and does not extend to those individuals who advise the committee members.

By not establishing policies that address all of these prohibitions and applying these policies to all individuals who serve on or advise selection committees, districts may not be providing participants in their selection processes with adequate guidance as to which activities may increase the risk of bias or give the appearance of bias to publishers and the public. If district employees are not aware of the type of activities that may increase the risk of bias, they may participate in such activities.

We identified 104 school officials who participated in the selection of mathematics and English-language arts materials at their four districts. To determine whether they had taken part in activities that might increase the risk of bias, we asked whether they had received any gifts or gratuities from publishers. Of the 79 who responded to our survey, 20 indicated that they had received gifts or gratuities from publishers, including meals, beverages, tours, flowers, and other items. Two of the 20 officials said that they had received gratuities at the same time that they

were involved in the selection of instructional materials for their districts. Also, as discussed more fully in the next chapter, 21 officials responded that they had attended events hosted by publishers. Consequently, there was increased risk that these people may have been biased or may have given the appearance of bias toward the instructional materials that were submitted by the publishers who provided the gifts and hosted the events. If participants in the selection of instructional materials are indeed biased, districts may not purchase materials best suited for the needs of its pupils. However, we found no evidence indicating whether receiving gratuities or attending events hosted by publishers actually did or did not bias school officials when they evaluated or selected instructional materials.

**Disclosure
Statements Not
Required of
Some Officials**

All four of the districts we reviewed had adopted conflict of interest codes according to state law, identifying certain employees within each district who are required to file annual disclosure statements. The districts used forms that were the same as or similar to the statement of economic interests form used by the state board and the Curriculum Commission. However, the policies of Oakland Unified School District, Stockton Unified School District, and Saddleback Valley Unified School District have not required all individuals who participate in the evaluation and selection of instructional materials to file disclosure statements similar to the advisory body disclosure forms required by the state board's regulations. For example, of the individuals who participate in the evaluation and selection of instructional materials, Saddleback Valley Unified's policy requires only its board members and assistant superintendent of instruction to file annual statements. This district's policy does not require disclosure statements from the library services/textbook specialist, principals, department chairpersons, or teachers, all of whom have participated in the evaluation and selection of the mathematics instructional materials.

Furthermore, when three of these four districts' policies did require employees who participated in the evaluation and selection of instructional materials to file disclosure statements, the requirements for when a financial interest must be disclosed were more lenient than the disclosure requirements found in the advisory body disclosure statement required by the state board's regulations. Specifically, the annual disclosure forms used by Oakland Unified, Stockton Unified, and Saddleback Valley Unified require the disclosure of income over \$250 and investments over \$1,000. However, the disclosure form included in the state board's regulations requires that advisory body members disclose income and investments when the source is a person or firm that has done business with or submitted materials to the advisory body of which the filer is a member, regardless of amount.

Of 104 school officials in our survey at the four districts, only 45 were required to file statements disclosing their financial interests or relationships with publishers. The following table shows the number of people who were required to file statements in each of the four districts.

Table 3 The Number of School Officials Involved in the Selection of Instructional Materials Who Were Required by District Policy To File Statements Disclosing Financial Interests

District	Officials in Survey	Officials Required To File
Oakland Unified	33	18
Saddleback Valley Unified	36	6
San Diego City Unified	12	12
Stockton Unified	23	9
Total	104	45

If individuals who participate in the evaluation and selection of instructional materials do not file disclosure statements, they may have relationships or financial interests of which the districts may not be aware. Of the 34 employees we surveyed who were not required to file disclosure statements, 3 told us that publishers previously employed them as consultants.

During our audit, the board of Stockton Unified School District adopted a policy requiring all individuals involved in selecting instructional materials who do not already file an annual disclosure statement to file a statement similar to the advisory body disclosure form required by the state board's regulations. They must file these forms before participating in the selection process. This new policy also prohibits selection committee members from accepting gratuities of any kind from publishers. Saddleback Valley Unified School District is considering the adoption of a similar policy. In addition, on December 12, 1989, the president of the state board sent all county superintendents of schools, district superintendents, principals, and local school board members a copy of the state board's Professional Code of Conduct. This includes the State's advisory body disclosure statement and statement of incompatible activities. The president encouraged each district to adopt these or similar forms and guidelines.

Conclusion Local school districts lack comprehensive conflict of interest policies. Three of the four districts we visited had not established policies similar to those included in the State Board of Education's regulations. These regulations define incompatible activities and relationships for individuals involved in the evaluation and selection of instructional materials at the state level. Further, three of the four districts required only a portion of the participants in the selection of instructional materials to disclose either their financial interests or their relationships with publishers. Such participants who accept gratuities or compensation from publishers or who have some other financial interest in the instructional materials that a district selects increase the risk of bias or of giving the appearance of bias. If these officials are indeed biased in the performance of their duties, districts may not select instructional materials that are most suited to their students' needs.

Recommendation

Since school districts are spending funds allocated by the State specifically for the purchase of instructional materials, we recommend that the Legislature mandate incompatible activities requirements for local school officials involved in textbook procurement. These requirements should be similar to those adopted by the State Board of Education.

Chapter 3 Publishers Host Numerous Events That Local School District Officials Attend

Chapter Summary

In addition to events scheduled by school districts as a part of the formal process for selecting instructional materials, publishers organize and sponsor many meetings, seminars, receptions, and other events that local school district officials attend. We found that four of the eight publishers we surveyed hosted approximately 300 events from 1987 through 1989. These events were typically held at hotels, inns, and restaurants, and publishers usually provided beverages and food. In addition, they occasionally provided small gifts, transportation, and lodging. We did not find that any of these events or the gratuities that some school officials received at these events resulted in an infraction of any state law or local school district policy.

Publishers Host Various Types of Events

Publishers have opportunities to meet with and make presentations to individuals responsible for evaluating and selecting instructional materials. For example, the State Board of Education's (state board) current policy allows publishers to present their materials to members of the Instructional Materials Evaluation Panels (IMEPs). The Subject Matter Committee is responsible for scheduling presentations. Publishers also present their instructional materials to officials of school districts. All four of the districts we visited scheduled time for presentations by publishers whose materials the districts were considering for use in their elementary schools. All four districts also limited the amount of time each publisher had to present its materials. In addition to presentations hosted by their school districts, some school district officials attended other meetings and events hosted by publishers.

Of 79 school officials at the four districts we surveyed who participated in the selection of instructional materials, 36 told us that they were invited to events hosted by publishers, and 21 told us that they attended the events. The types of events included training sessions, seminars, workshops, and receptions. The 21 individuals were unable to provide us with many specific details other than the approximate dates and, in some cases, the locations of the events and the names of the publishers that sponsored the events. They reported that they attended publisher-sponsored events that occurred between 1981 and 1989. Of the 21 who reported attending these events, 16 said that the publishers provided either gifts, beverages, food, or entertainment at the events.

The individuals we surveyed identified the names of eight publishers that may have sponsored the events. These eight publishers were: Open Court Publishing Company; Houghton Mifflin Company; Scott, Foresman and Company; Silver, Burdett and Ginn, Inc.; Harcourt Brace Jovanovich, Inc.; Holt, Rinehart, and Winston, Inc.; McGraw-Hill Book Company; and D.C. Heath and Company.

We wrote to these eight publishers and asked them if they sponsored any events during 1987, 1988, and 1989. In addition, we asked the publishers to identify the purpose of the events, who attended, and what items the publishers provided, for example, gifts, beverages, meals, and lodging.

As of June 19, 1990, two publishers had not responded to our request: Harcourt Brace Jovanovich, Inc., and Open Court Publishing Company. Both of these publishers claim they never received our letter. Because of this, we have extended the deadline for their response to our request. Another two publishers responded to us but did not report the number of events or details about each of the events. McGraw-Hill Book Company reported only that it often sponsors receptions at a number of national and local educational conferences and that it had no records of who attended any particular reception. Houghton Mifflin Company reported that its staff hold staff development seminars for teachers and administrators. In addition, it provides workshops for districts that purchase its materials. Houghton Mifflin reported one

example when it paid the meal and lodging expenses of 50 Oakland educators who attended a workshop at Houghton Mifflin's training center.

The remaining four publishers provided greater details about the events they sponsored. These four publishers, D.C. Heath and Company; Holt, Rinehart, and Winston, Inc.; Scott, Foresman and Company; and Silver, Burdett and Ginn, Inc., reported hosting approximately 300 events during 1987, 1988, and 1989.² The events consisted of conferences, workshops, and presentations by authors and educational consultants. The events were almost always held at hotels, inns, or restaurants. At these events, the publishers usually offered beverages, hors d'oeuvres, and meals. In a few instances, the publishers provided small gifts (such as bookbags), transportation, and lodging. Silver Burdett and Ginn, Inc., was the only publisher that provided a list of the names of the people attending some of its events. It reported that it sponsored 104 events and that as many as 5,611 people attended these events.

We also obtained information about events that publishers did not report to us. In August 1988, McGraw-Hill Book Company hosted two Integrated Language Arts seminars at the Claremont Hotel in Oakland. According to the agendas for these seminars, the attendees met in general sessions and in smaller discussion groups for presentations concerning integrated language arts. The publishing company agreed to pay for lodging and meal expenses for those attending the seminars from at least one school district. The two seminars were attended by at least 39 school officials representing eight school districts and one archdiocese. Among those attending was an employee of Oakland Unified School District, who, two months later, served as an advisory member of the selection committee for English-language arts. The district's selection committee did not choose the instructional materials from McGraw-Hill for use in the district's English-language arts program, however.

² These events include 38 for Scott, Foresman and Company. This publisher provided details related to events held only during 1989 but stated that 1989 was "typical."

Another event was an “Administrators’ Weekend” hosted by Open Court Publishing Company at the Ritz Carlton Hotel in Laguna Niguel. Twenty-one school officials attended this July 1987 event, along with 18 of their guests, representing 18 school districts and one archdiocese. According to the agenda for this event, one of the activities included an educators’ meeting at which Open Court’s staff spoke on textbook selection and the mathematics framework. Other activities included dining, dancing, golfing, and a cruise of the Newport Harbor provided by Open Court. One of the school officials who attended was an employee of Saddleback Valley Unified School District. In September 1987, Saddleback Valley Unified began the selection of instructional materials for mathematics that the district would purchase for its elementary schools. The same official served in an advisory capacity to the selection committee. The district’s principals ultimately chose Open Court’s instructional materials for the district’s mathematics program.

Conclusion Publishing companies hosted many events to discuss their instructional materials with school officials who, in some cases, selected or advised in the selection of instructional materials for the districts they represented. These events were often held at hotels, inns, and restaurants. The publisher usually provided beverages and food. Occasionally small gifts, transportation, and lodging were also provided.

Chapter 4 An Overview of Two Recent State Adoptions of Textbooks and Other Instructional Materials

Chapter Summary

We reviewed the State's process for adopting instructional materials and how often, in two recent state adoptions, the State Board of Education (state board) followed the recommendations of the Curriculum Development and Supplemental Materials Commission (Curriculum Commission). We also reviewed how often the state board's other advisory groups, the Subject Matter Committee and the Instructional Materials Evaluation Panels (IMEPs), differed in their recommendations as to which instructional materials the state board should adopt. Generally, the advisory group's recommendations differed somewhat from the state board's choices. The state board does not have a record explaining its reasons for not following the recommendations of the Curriculum Commission. However, at the time of our review, the state board was not required to provide this information. Recently enacted legislation requires the state board to provide written justification when it does not adopt material that the Curriculum Commission recommends.

The State's Adoption Process

In October 1983, the California Department of Education (department) developed procedures for its advisory groups and the department to follow when evaluating instructional materials and making recommendations about which instructional materials the state board should adopt.

The department, on behalf of the state board, should invite publishers to submit copies of the instructional materials they want the state board to consider for adoption. Publishers ship their materials to at least 29 Instructional Material Display

Centers throughout the State. These centers are responsible for displaying the materials for public review and providing information about the state evaluation and adoption process. The display centers also post the Curriculum Commission's recommendations and the state board's final decisions.

The process for evaluating instructional materials consists of two primary parts. One part is a legal compliance review. The purpose of this review is to ensure that instructional materials comply with requirements in the Education Code and state board policy, regarding such topics as cultural and racial diversity, ecology and the environment, and the discouragement of the use of tobacco, alcohol, and drugs. The Legal Compliance Review Committee, chosen on behalf of the state board, should conduct this review. The committee members serve on a voluntary basis.

The other part of the evaluation process is the educational content review. In this review, the instructional materials are to be evaluated for factual and technical accuracy and for educational value and quality. Members of the IMEP should independently evaluate publishers' submissions, using an evaluation form. This form should be based on the criteria and standards of quality for instructional materials that are reflected in the curriculum frameworks approved by the state board. The evaluation form may require the IMEP to assign a numeric rating in various categories, and it may also assign a weighting to each rating. Moreover, it may establish a minimum passing score.

After IMEP members are brought together to evaluate the submissions, each IMEP should prepare a summary evaluation form, which includes the IMEP's rationale for either recommending or not recommending a submission for adoption by the state board. At this time, publishers should be given an opportunity to meet with the IMEP to respond to the IMEP's evaluations. The IMEP must then finalize its evaluations and prepare a report for the Subject Matter Committee, listing each item that is recommended or not recommended for adoption. The report should also discuss the strengths and weaknesses of each item.

The Subject Matter Committee, with assistance from the department, should review the IMEP's report, along with other information, such as public comments. The Subject Matter Committee must submit a report to the Curriculum Commission that includes a list of the submissions it recommends for adoption and those it does not recommend. The report also must include the reasons for the Subject Matter Committee's recommended actions.

The Curriculum Commission may revise the Subject Matter Committee's list of submissions that are recommended or not recommended. The Curriculum Commission, by majority vote, must approve the list of submissions that it recommends the state board adopt and submit the list to the state board, along with its rationale for the recommendations.

Upon receiving the Curriculum Commission's recommendations, the state board may request any records, letters, evaluation forms, or other material relating to the evaluation of any item under consideration. It may also hear testimony from any interested party. Lastly, the state board must develop and adopt a list of instructional materials.

In addition to the public hearing before the state board, there are other opportunities for the public to comment during the adoption process. First, the Instruction Materials Display Centers must furnish public comment forms used by persons who wish to submit opinions concerning any materials. The department should present these forms to the Curriculum Commission. In addition, members of the public may speak at a public hearing before the Curriculum Commission.

During the period of the two adoptions we reviewed, neither the law nor the state board's own policies required the state board to make a record of the reasons for any changes it made to the list of instructional materials submitted by the Curriculum Commission. However, as of January 1, 1990, Chapter 1181, Statutes of 1989, requires the state board to justify in writing why it rejects any instructional materials, but the law still does not require the state board to justify instances when it adopts instructional materials the Curriculum Commission has not recommended.

**The 1988
Integrated
English-
Language
Arts Adoption**

The most recent adoption for English-language arts occurred in 1988. The Curriculum Commission divided the submissions into four categories: integrated English-language arts, reading, English, and spelling. We reviewed only the 23 submissions in the integrated English-language arts category. Some of the submissions were a series of instructional materials, each consisting of a group of materials designed for use in two or more grade levels in succession.

The Subject Matter Committee established three IMEPs to review each submission for the English-language arts category. However, six publishers had also submitted 6 of the 23 submissions in the reading category, and the Subject Matter Committee had established three panels to evaluate all the submissions in the reading category. Consequently, six IMEPs evaluated these 6 submissions, and three IMEPs evaluated the remaining 17 submissions. At the conclusion of the review, each IMEP completed an evaluation form rating each submission on different factors. The ratings were then weighted and the results totaled. Based on a minimum passing score determined by the Subject Matter Committee, the Instructional Materials Evaluation Panels recommended submissions for adoption. Of the 23 submissions the IMEPs evaluated, 3 were recommended for adoption by all the IMEPs, and another 3 were recommended by a majority of the IMEPs. Each of the IMEPs' written reports included the rationale for their recommendations.

The Subject Matter Committee recommended for adoption the same six submissions that all or a majority of the IMEPs recommended, and it also recommended the adoption of three other submissions and portions of two others. For example, one publisher's submission included instructional materials for use in grades kindergarten through six. Although all three of the IMEPs did not recommend the adoption of this submission, the Subject Matter Committee recommended the adoption of the instructional materials in the submission that were designed for use in grades three through six.

The Subject Matter Committee's report to the Curriculum Commission contained the rationale for its recommendations to adopt nine submissions and portions of two others. The Curriculum Commission made no changes to the Subject Matter Committee's recommendations and made the same recommendations to the state board. The Curriculum Commission included the rationale for its decisions in its report to the state board.

The state board adopted all the materials that the Curriculum Commission recommended and also adopted other materials. One was a submission that was recommended by one IMEP but was not recommended by the two other IMEPs, the Subject Matter Committee, and the Curriculum Commission. In the other instance, discussed earlier in this report, the Subject Matter Committee, and consequently the Curriculum Commission, recommended that the state board adopt only a portion of a publisher's submission, which was designed for use in grades three through six. The state board adopted this publisher's entire submission, including the portion designed for grades kindergarten through two. In all, the state board adopted 11 submissions and a portion of one other. Five of these submissions and the portion of the other were not recommended by a majority of the IMEPs.

Although the state board's minutes do not indicate why it adopted the materials not recommended by its advisory groups, the president of the state board told us that he felt it adopted the additional materials because a number of witnesses testified in support of these materials and had convinced the state board that the materials should be available to districts with students who had "special needs."

Disclosure statements filed by the state board members did not reveal that any member had a financial interest in any of the publishers who had submitted materials for adoption. Also, the Legal Compliance Review Committee had approved all the materials the state board adopted.

**The 1986
Mathematics
Adoption**

The most recent adoption for mathematics began in 1986. In June 1986, publishers submitted 30 instructional materials for consideration. As with the 1988 English-language arts adoption, some of the submissions were series of instructional materials. The 30 submissions were divided into four categories: 14 were each a series of instructional materials for teaching mathematics in kindergarten and grades one to eight (K-8 series); two submissions were instructional materials for any of the grades kindergarten through two but were not a series for all grade levels (K-2 non-series); seven submissions were instructional materials for grades seven and eight but were not a series (7-8 non-series); and seven submissions were instructional materials for the subject of algebra.

The Subject Matter Committee established four IMEPs to evaluate the 30 submissions. Three of the IMEPs evaluated the 23 submissions in the first three categories: the K-8 series, the K-2 non-series, and the 7-8 non-series. The fourth IMEP evaluated the 7 algebra submissions.

As in the 1988 English-language arts adoption, at the conclusion of their reviews, each IMEP completed an evaluation form rating each submission on different factors. The ratings were then weighted and totaled. However, minimum passing scores had not been established for the adoption of mathematics materials. Each IMEP then submitted the totaled results and a written evaluation that discussed the strengths and weaknesses of the submissions. The IMEPs did not, however, list which submissions they recommended for adoption and which they did not. The chairperson of the Subject Matter Committee at that time said that the IMEPs did not make recommendations because the Subject Matter Committee had overlooked the state board's requirement to do so and had not instructed the IMEPs to prepare such recommendations.

The Subject Matter Committee recommended the adoption of 6 of the 30 submissions. Included in the 6 was only one from the K-8 series category. In the Subject Matter Committee's judgment, this was the only one of the 14 submissions in this category that met the criteria of the curriculum framework. If the state board adopted only the one submission in the K-8 series, the publisher

of that submission would be the only one from whom districts could purchase adopted textbooks in the K-8 series. In addition to its recommendation of this one submission, the Subject Matter Committee recommended that the state board give the publishers of 7 other submissions in the K-8 series category an extension of two years to revise their materials and resubmit them. When the Subject Matter Committee reported its recommendations to the Curriculum Commission, it also included the rationale for its recommendations.

In its report to the state board, the Curriculum Commission recommended the adoption of five of the six submissions that the Subject Matter Committee had recommended. The five submissions the Curriculum Commission recommended for adoption did not contain textbooks for grades three through seven. In addition, the one submission it did not recommend was the one in the K-8 series category. Consequently, as can be seen in Table 4, the Curriculum Commission did not recommend the adoption of any of the 14 submissions in this category.

Table 4 Comparison by Category of the Number of Mathematics Submissions Evaluated and Recommended for Adoption by the Curriculum Commission

Category	Submissions Evaluated	Submissions the Curriculum Commission Recommended
K-8 series	14	0
K-2 non-series	2	2
7-8 non-series	7	0
Algebra	7	3
Total	30	5

Instead of recommending one of the submissions in the K-8 series category, the Curriculum Commission recommended that the state board allow all the publishers of the 14 submissions in the K-8 series category one year to revise and resubmit their

materials. In its report to the state board, the Curriculum Commission discussed the reasons for its recommendations. In part, the Curriculum Commission explained that it recommended none of these submissions because they failed to demonstrate an “adequate match” with the curriculum framework for mathematics.

The state board adopted the five submissions recommended by the Curriculum Commission and approved the one-year extension of the adoption period so the publishers of the 14 submissions could revise and resubmit their materials. The state board also approved an abbreviated process for the evaluation and adoption of these resubmissions. It established a review group, which consisted of five members from the Curriculum Commission and three staff from the department. The group was assisted by six technical advisors, who were former members of the IMEPs.

The review group was primarily responsible for evaluating the materials that the publishers resubmitted and for making recommendations directly to the state board. Because the Legal Compliance Review Committee had approved all 14 initial submissions, the state board ruled that the publishers’ revised materials need not undergo another legal compliance review. Also, the state board did not require the review group to provide in writing the rationale for its recommendations.

The review group did not present its recommendations to the state board all at one time. Instead, it made recommendations as it reviewed a publisher’s materials and found them suitable for adoption.

The review group met often with publishers throughout the review process to discuss the strengths and weaknesses of their materials. By November 1987, it had recommended the adoption of six submissions. The state board adopted each of the materials that the review group recommended and none others.

The disclosure statements of the members of the state board and for those of the review group that the department could locate did not reveal that any member had a financial interest in any of the publishers that had submitted instructional materials for adoption.

Conclusion

When evaluating the instructional materials in the integrated English-language arts category, the Subject Matter Committee recommended the adoption of three submissions and portions of two others that the majority of Instructional Materials Evaluation Panels had not recommended. The Curriculum Development and Supplemental Materials Commission agreed with the Subject Matter Committee's recommendations, and the State Board of Education adopted all the submissions that the Curriculum Commission recommended. It also adopted additional instructional materials that the Curriculum Commission had not recommended. Although all of the state board's advisory groups put in writing their reasons for either recommending or not recommending each submission, which is required in the state policy developed by the department, the state board was not required at that time to record the reasons for its actions. Recently enacted legislation now requires the state board to provide written justification when it does not adopt instructional materials that the Curriculum Commission recommends.


For the adoption of instructional materials in the mathematics subject area, we could not determine which materials the Instructional Materials Evaluation Panels recommended because the Subject Matter Committee did not instruct them to put their recommendations in writing.

The Subject Matter Committee recommended to the Curriculum Commission the adoption of six submissions. The Curriculum Commission recommended the adoption of five of these six submissions and recommended that the state board extend for one year the adoption period for the materials in the

K-8 series category because it felt that none of the submissions were an adequate match with the curriculum framework for mathematics. The state board agreed with the Curriculum Commission's recommendations and established a special group to evaluate the material that publishers resubmitted during the extended review period. The group recommended and the state board adopted six of the resubmissions. The state board did not require the group to put the reasons for its decisions in writing.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


KURT R. SJOBERG
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Appendix A

States That Adopt Textbooks and the Length of Their Adoption Cycles

	Length of Adoption Cycle
Alabama	6 years
Arizona	6 years
Arkansas	5 years
California	7 years
Florida	4 years for science and computer education 6 years for all other subjects
Georgia	5 years
Idaho	5 years
Indiana	6 years
Kentucky	6 years
Louisiana	6 years indefinite ^a
Mississippi	4 years (2-year extension) ^b
Nevada	4 years
New Mexico	6 years
North Carolina	5 years (2-year extension) ^b
Oklahoma	5 years
Oregon	6 years
South Carolina	4 years (2-year extension) ^b
Tennessee	6 years
Texas	6 years
Utah	4 years
Virginia	6 years
West Virginia	6 years

Source: Association of American Publishers

^aThe state can extend the contract/adoption indefinitely if it chooses.

^bThe state can extend the adoption cycle two years.

Appendix B

School Districts We Contacted That Bought the Same Mathematics or English-Language Arts Textbooks as the Four Districts We Visited

School District	Publisher
Alisal Union	Houghton Mifflin Company
Hemet Unified	Houghton Mifflin Company
Jurupa Unified	Houghton Mifflin Company
Norwalk-La Mirada City Unified	Houghton Mifflin Company
Pittsburg Unified	Houghton Mifflin Company
Arcohe Union	Open Court Publishing Company
Bennett Valley Unified	Open Court Publishing Company
John Swett Unified	Open Court Publishing Company
Mount Diablo Unified	Open Court Publishing Company
Ravenswood City	Open Court Publishing Company
Richmond Unified	Open Court Publishing Company
Soledad Union	Open Court Publishing Company
South San Francisco Unified	Open Court Publishing Company
Temecula Union	Open Court Publishing Company
Barstow Unified	Addison-Wesley Publishing Company, Inc.
Del Norte County Unified	Addison-Wesley Publishing Company, Inc.
Empire Union	Addison-Wesley Publishing Company, Inc.
Huntington Beach City	Addison-Wesley Publishing Company, Inc.
Temple City Unified	Addison-Wesley Publishing Company, Inc.
Alta Loma	Scribner/Laidlaw
Beaumont Unified	Scribner/Laidlaw
Buena Park	Scribner/Laidlaw
Hayward Unified	Scribner/Laidlaw
Salinas Union High	Scribner/Laidlaw



CALIFORNIA STATE DEPARTMENT OF EDUCATION

Bill Honig**721 Capitol Mall; P.O. Box 944272****Superintendent****Sacramento, CA 94244-2720**

of Public Instruction

June 22, 1990

Kurt Sjoberg, Acting Auditor General
Office of the Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

P-935

Dear Mr. Sjoberg:

Thank you for the opportunity to review and comment on the draft copy of the Office of the Auditor General's report on the purchasing practices and conflict of interest policies in the selection of school textbooks. Your recommendations and comments will enhance the efforts of the California Department of Education (CDE) and the State Board of Education to enforce provisions of the Education Code, strengthen contracts with publishers and improve districts' reporting.

As noted in your report, California's procedures developed by CDE for evaluating and adopting instructional materials are thorough and comprehensive. We appreciate your recognition and conclusion that these procedures and the conflict of interest procedures adopted by the State Board of Education and used by CDE and the Curriculum Commission serve as a model to be followed by all local school districts to avoid incompatible activities and the appearance of bias.

To enforce the provisions of the Education Code requiring publishers to provide instructional materials free of charge to the same extent to all school districts, the Instructional Materials Fiscal Services Unit (IMFS) and Legal Office staff are currently preparing a \$1,400,000 claim (not including possible treble damages) against Holt, Rinehart and Winston for alleged violation of Education Code Section 60061. CDE will present the claim to Holt, Rinehart and Winston by July 31, 1990.

IMFS staff will survey all school districts in California to gather the information necessary to determine any amount due from Addison-Wesley Publishing Company, Inc., Houghton Mifflin Company, Scribner/Laidlaw, and Open Court Publishing Company for violation of Education Code Section 60061. CDE will then take the appropriate action to recover any amounts owed by these publishers.

To strengthen the State Board of Education's contracts with publishers and provide an incentive for publishers to report all free items they give to districts, IMFS and Legal Office staff will

Kurt Sjoberg
June 22, 1990
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develop proposed contract language to be included in new contracts between publishers and the State Board of Education. The proposed language will explicitly describe reporting requirements and penalties for not complying with the Education Code relative to free instructional materials including grants.

To improve the districts' reporting of items publishers offer for free, IMFS will present the findings and recommendations from your report in CDE's next semi-annual information memorandum to school districts. In the memorandum, IMFS will stress the importance of district cooperation in providing information on free materials from publishers. In addition, when IMFS distributes next year's list of free materials, IMFS staff will include a memorandum which identifies the districts' responsibilities for ensuring that free materials are offered equitably.

If you have any questions about our response, contact Peggy Peters, Acting Audit Response Coordinator, at 324-2558.

Sincerely,

A handwritten signature in dark ink, appearing to read "William D. Dawson", with a long horizontal flourish extending to the right.

William D. Dawson
Deputy Executive Superintendent

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps